HON'BLE Mr. JUSTICE R. SUBHASH REDDY

–

Writ Petition Nos.11291 and 9856 of 2006

–

Dated: June 22, 2006

Common order:

Since the issue involved in these writ petitions is interrelated,
and the proceedings impugned being one and the same, they are being disposed of by this common order.

2. These two writ petitions have been filed questioning the proceedings Rc.No.3644/A2-1/2006 dated 26-04-2006 issued by the first respondent, the Secretary, A.P. Residential Educational Institutions Society, Hyderabad, for effecting general transfers of the teaching and non-teaching staff in the residential schools through counselling and also the guidelines thereto. While W.P.No.11291 of 2006 has been filed by four junior lecturers working in the respondent society, W.P.No.9856 of 2006 has been filed by a sangam by name Gurukula Vidyalayala Telangana Udyogula Sangam, an association of members of teaching and non-teaching staff of Telangana region.

3. Heard Sri P. Kesava Rao, learned counsel for the petitioners, Sri Vijaya Bhaskar Moola, the learned Standing Counsel appearing on behalf of the respondents and also the learned counsel appearing for the association that has been impleaded as a party respondent.

4. The aforesaid guidelines, which have been issued effecting transfers, are questioned by the petitioners on the ground that they are in violation of the rules framed in G.O.Ms.No.102 Education Department dated 05-08-2005 and are contrary to the orders issued in G.O.Ms.No.71 dated 01-04-2006, in which the Government of Andhra Pradesh relaxed the ban imposed on the transfer of employees in various departments. It is the case of the petitioners that no seniority list has been prepared in the cadre of junior lecturers. So far as W.P.No.11291 of 2006 is concerned, the plea of the petitioners is that as per the guidelines discussed hereinabove, certain points were given to the staff having regard to the length of their service; however,

without any valid reason, senior lecturers were given fewer points than that of the junior lecturers in the cadre.

5. Counter affidavits have been filed by the respondent society and also the association, which was impleaded as a party respondent, opposing the prayer in the writ petitions. It is the main defence of the respondents that A.P. Educational Institutions Society is a society registered under the A.P. Public Societies Registration Act and the rules issued by the Government are not applicable to it in toto except to the extent of rules adopted by the society. It is stated that since the rules framed in G.O.Ms.No.102 have not been adopted in toto, the transfers have been effected as per the guidelines framed by the society. Even with reference to relaxation of ban vide G.O.Ms.No.7 dated 01-04-2006, it is the defence of the respondents that such ban orders issued by the Government are not applicable to the society. The allegation of the petitioners is that if points are given basing on the length of the service put in, the action of the respondents in giving more points to junior lecturers than that of their seniors is unjustifiable. The respondents have answered the same stating that the points were given as per the guidelines framed in this regard. Further the society that has been impleaded as a party respondent, stated that the points for length of service would depend on the service of the staff concerned in rural areas, towns and cities and therefore the points would differ having regard to their place of posting. In that view of the matter, the points which were already given in the counselling are correct as per the guidelines.

6. So far as the petitioner in W.P.No.9856 of 2006 is concerned, earlier, it has approached this Court by way of W.P.No.23174 of 2005, mainly raising a plea that if the transfers are effected, they would result in imbalance in several zones and the same would result in detriment to the interests of the employees belonging to the respective zones. This Court, by order dated 03-11-2005 permitted the respondent society to proceed with the transfers subject to certain conditions. In fact, the impugned proceedings also refer to the aforesaid orders of this Court.

7. Though learned counsel for the petitioners submits that the transfers are in violation to the rules framed in G.O.Ms.No.102, the first respondent society being an autonomous body, the rules framed by the Government cannot be applied instinctively for effecting transfers. As stated in the counter affidavit, to certain extent, rules are adopted and guidelines are framed to suit the requirement of the society. So, there are separate set of guidelines for effecting transfers which govern the field.

In such an event, it is not open for the petitioners to contend that the transfers are in violation of the rules framed in G.O.Ms.No.102 dated 05-08-2005. The allegation of the petitioners that transfers have been effected during the ban imposed during the period from 01-04-2006 to 25-04-2006 cannot be accepted for the reason that the said orders have not been adopted by the first respondent society, in the absence of which there is no hurdle for effecting administrative transfers. The society, being an autonomous body, registered under the Societies Registration Act, is governed by the decision of the Managing Committee and the guidelines framed by the society effecting transfers. The plea of the petitioners that seniority list has not been finalized is also no ground at all to prevent the administrative transfers having regard to need, requirement in various schools run by the society in the state of Andhra Pradesh. The transfers effected at the beginning of an academic year are to meet the administrative exigencies and it is now well recognized that transfer is an incidence of service. It is also open for the managements to effect such transfers in the interest of the society, which is of paramount consideration. The allegation of the petitioners that the action of the respondents in giving more points to certain juniors in the category of junior lecturers than that of their seniors is untenable, cannot be accepted for the reason that mere seniority alone is not a factor for awarding such points and it differs from person to person having regard to the place of posting, namely, different villages, cities and towns. Merely because one is senior to another member, he is not automatically entitled for more number of points. In a given case, if points are not awarded correctly as per the guidelines, the very guidelines also provide for an appeal against a transfer order.

8. During the course of hearing, it has been brought to my notice that four lecturers who have filed one of the writ petitions have completed more than ten years of service at their respective places. If that be the case, it is always open for the society to effect administrative transfers as per the guidelines framed in this regard.

9. For the foregoing reasons, I do not find any illegality in the proceedings impugned, warranting interference under Article 226 of the Constitution of India.

10. The writ petitions are devoid of merit and are accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY.

June 22, 2006

MRR